
ROBERT T. NORWAY



10-8-2004

Mr. Frank J. Congel, Director
Office of Enforcement
U.S. Nuclear Regulatory Commission
Mail Stop T-6 D8
Washington, DC 20555-0001

Dear Sir:

I am astounded over your June 29 2004 response to my April 28, 2004 letter. In your letter you state that "In accordance with agency practice and applicable law, the NRC placed this document in the public domain after redacting all information that might personally identify the subject of the document". A position that then Director of Nuclear Reactor Regulation Samuel J. Collins had previously taken in Director Decision 99-13, dated October 28, 1999.

I do realize that a US Government Agency can make a FOIA release of "personnel and medical files and similar files" if the individual's name and all information that can be used to identify the 'subject' of the confidential documents are redacted from public record. Although Mr. Samuel J. Collins did explain that the document was placed in the public domain only after the NRC redacted all information that might personally identify the subject of the document, in DD-99-13, I found that to be a Blatant Bold-Face Lie. The NRC did not redact my name from the May 10, 1996 predecisional enforcement conference records that were placed in the public domain.

Therefore, I will need you to exactly specify what you and Mr. Samuel J. Collins mean by "In accordance with agency practice and applicable law, the NRC placed this document in the public domain after redacting all information that might personally identify the subject of the document". Exactly, what information was redacted from what documents?

I ask for this explanation due to my review of the records associated with that PEC and its corresponding Violation EA-96-116. I am aware that this alleged personnel record was placed into the public domain with the Licensee's May 10, 1996 predecisional enforcement conference handouts that serve as the NRC official 'Summary' of that PEC. I am also aware that the NRC did redact my name from that document and the rest of the Summary prior to its placement into the public domain. I had accessed this document at a NRC remote Public Document Room after looking up the accession number from the NRC Index System. The information was easy to find. Especially since the NRC had included my name in its distribution of that document.

I had also noted that the NRC had placed the transcripts from the May 10, 1996 predecisional enforcement conference in the public domain without redacting my name from that document. On page 9 and 10 of the transcript, I am specifically identified as the 'subject' of the alleged job performance evaluation.

I know that the NRC made public news releases that identified me by name as the Victim of Discrimination associated with the May 10, 1996 predecisional enforcement conference. I also know that the NRC included my name in the Notice of Violation EA-96-116, which is associated with the May 10, 1996 predecisional enforcement conference. In fact, every other document pertaining to the May 10, 1996 predecisional enforcement conference and Violation EA-96-116 included my name as the Victim of Discrimination.

Please do not mistake this letter to be a request to remove that document from the May 10, 1996 predecisional enforcement conference summary. I filed a petition to have that document removed from the public domain and Mr. Samuel J. Collins decided, in DD-99-13, to retain this document in the public domain and redact all information that could be used to identify me as the subject of that document. I expect the NRC to comply with Director's Decision 99-13 and FOIA redaction requirements.

I expect the NRC to redact my name and all information that could identify me as the subject of that document from all of the May 10, 1996 predecisional enforcement conference and Violation EA-96-116 records that the NRC had placed into the public domain.

I expect the NRC to comply with the decision that Mr. Samuel J. Collins made in DD-99-13 and redact my name from the distribution of the May 10, 1996 predecisional enforcement conference summary.

I expect the NRC to comply with the decision that Mr. Samuel J. Collins made in DD-99-13 and redact my name from the transcripts of the May 10, 1996 predecisional enforcement conference summary.

I expect the NRC to comply with the decision that Mr. Samuel J. Collins made in DD-99-13 and redact my name from all documents associated with the May 10, 1996 predecisional enforcement conference and Violation EA-96-116 that can be used to determine that I am the subject of that document.

Please explain to me why the NRC has not yet redacted my name from the May 10, 1996 predecisional enforcement conference and Violation EA-96-116 records that can be used to identify me as the subject of that document?

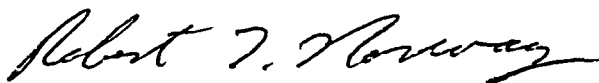
It is obvious that by only redacting my name from only one of several May 10, 1996 predecisional enforcement conference records, the NRC has a deficiency with the implementation of the FOIA redaction requirements for Discrimination Case Records. The fact that you or Mr. Samuel J. Collins did not correct this deficiency demonstrates that there is a major problem in the NRC Programs, Policies and Procedures. This problem needs to be addressed because it has a direct and Chilling Effect on nuclear workers thinking about filing a DOL Discrimination Complaint. The NRC current policy to identify the Victims of Discrimination by name in the PEC and violation records while placing any of their redacted personnel records or case records into the public domain will discourage them from filing a DOL Discrimination Complaint.

To protect the rights of future whistleblowers, I am going to initiate a Petition for Rulemaking to address the NRC FOIA redaction requirements for the Victims of Discrimination and the NRC placement of their personnel records into the public domain. I believe that the both the identity of the Victims of Discrimination and all their personnel records should be prohibited from being placed into the public domain in the PEC and violation records. I would also like to see mandatory requirements for the criminal prosecution, under the FOIA, of the responsible NRC officials who violate these requirements.

If the NRC is currently passing out job performance evaluations after only reacting the subject's name from the document, could you please tell me how I could file a FOIA request to obtain your redacted job performance evaluations? I also like to file a FOIA to obtain Mr. Samuel J. Collins's redacted job performance evaluations.

Your mention of the May 10, 2000 teleconference has reminded me that the NRC has not yet fulfilled your obligation from that teleconference. Specifically, the NRC had committed to send me a copy of the transcripts to that teleconference. Could you please fulfill the NRC's obligation from that teleconference and forward to me my copy of the transcripts of that teleconference?

Sincerely,

A handwritten signature in cursive script, reading "Robert T. Norway".

Robert T. Norway